

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
CIVIL MINUTES

Case Title: Capital Farms, Inc

Case No.: 25-10074 - A - 12

Docket Control No. FW-2

Date: 07/16/2025

Time: 9:30 AM

Matter: [6] - Motion/Application to Use Cash Collateral [FW-2] Filed by Debtor Capital Farms, Inc (jbrm)

Judge: Jennifer E. Niemann
Courtroom Deputy: Bethany Soto
Reporter: Electronic Record
Department: A

APPEARANCES for:

Movant(s) :

(by zoom) Debtor's Attorney - Peter L Fear

Respondent(s) :

(by zoom) Trustee - Lilian G. Tsang;

(by zoom) Creditor's Attorney - Michael J. Gomez;

(by zoom) Creditor's Attorney - Brandy Sargent;

(by zoom) Creditor's Attorney - Fernando Almaraz

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HEARING TO BE HELD ON 8/27/2025 at 9:30 AM at Fresno Courtroom 11,
Department A

The Moving Party shall submit a proposed order. The form of the order to be approved by Trustee Lilian G. Tsang.

This motion was set for hearing pursuant to an interim order authorizing use of cash collateral ("Interim Order"). Doc. #205. The motion was heard initially on January 16, 2025, and again on January 22, 2025, February 12, 2025, March 6, 2025, March 26, 2025, April 23, 2025, and June 11, 2025, and was granted on an interim basis on January 24, 2025, February 13, 2025, March 11, 2025, March 31, 2025, April 24, 2025, and June 11, 2025. See Doc. ##54, 74, 110, 126, 170, 205. A further hearing on use of cash collateral was set for July 16, 2025. Interim Order, Doc. #205. The Interim Order provided that the debtor shall file and serve a supplemental budget for use of cash collateral by July 2, 2025. Doc. #205.

On July 8, 2025, the court permitted the debtor to file and serve a supplemental budget on July 7, 2025. Doc. #221. On July 7, 2025, the debtor filed a supplemental budget for use of cash collateral from

July 24, 2025, through September 3, 2025. Doc. #220. Because the request authorizing continued use of cash collateral was set on less than 28 days' notice, opposition to the continued use of cash collateral may be raised at the hearing. The court entered the respondents' defaults and granted continued use of cash collateral on an interim basis through September 3, 2025.

Capital Farms, Inc. ("DIP" or "Debtor"), moves the court for an interim order authorizing Debtor to use the cash collateral of Tech Ag Financial Group, Inc. and Rabo AgriFinance LLC (together, "Lenders") for the period July 24, 2025, through September 3, 2025, subject to a proposed budget. Doc. #220. Debtor asserts Lenders hold duly perfected security interests in nearly all of Debtor's cash collateral. Motion, Doc. #6; Stipulation, Doc. #77.

Pursuant to 11 U.S.C. § 363, a debtor in possession can use property of the estate that is cash collateral by obtaining either the consent of each entity that has an interest in such cash collateral or court authorization after notice and a hearing. 11 U.S.C. § 363(c)(2). "The primary concern of the court in determining whether cash collateral may be used is whether the secured creditors are adequately protected." In re Plaza Family P'ship, 95 B.R. 166 (E.D. Cal. 1989) (citing 11 U.S.C. § 363(e)). Bankruptcy Code § 1205(b) requires DIP to provide adequate protection to the secured creditors for DIP's use of cash collateral for any decrease in the value of the secured creditors' interest in the accounts receivable due to DIP's use of cash collateral.

DIP moves the court for an interim order authorizing DIP to use cash collateral through September 3, 2025, consistent with the budget filed as Doc. #220. DIP seeks authority to use cash collateral from Debtor's 2024 almond crop in the total amount of \$313,679.57 for that period. Doc. #197.

DIP operates several almond farms on leased property. DIP seeks court authorization to use cash collateral from a processor advance to pay expenses needed to grow its 2025 almond crop. As adequate protection for DIP's use of cash collateral, DIP will grant a replacement lien on incoming cash collateral to the extent cash collateral is actually used. Motion, Doc. #6; Stipulation, Doc. #77. The evidence filed in support of the motion shows that the projected value of the processor advance will be sufficient to support DIP's use of cash collateral from July 24, 2025, through September 3, 2025. Doc. #220. Lenders have consented to DIP's ongoing use of cash collateral by stipulation. Stipulation, Doc. #77; Order, Doc. #110. In addition, DIP has filed a chapter 12 plan, and DIP has a hearing set for August 6, 2025, to confirm that plan. Plan, Doc. #136; Order, Doc. #196.

Accordingly, the motion was GRANTED on a further interim basis through September 3, 2025, consistent with the budget set forth in Doc. #220. The court set a hearing for further interim use of cash collateral for August 27, 2025, at 9:30 a.m. No later than August 13, 2025, the debtor shall file and serve supplemental pleadings. Opposition may be presented orally at the hearing.